



Refer to:
S9H: SSA-2019-000781

December 18, 2018

Ms. Emma Best
MuckRock News
Dept MR 62600
Sommerville, Massachusetts 02144
62600-07469439@requests.MuckRock.com

Dear Ms. Best:

This letter is in response to your December 13, 2018 appeal of Ms. Monica Chyn's decision to categorize you as a "commercial requester" as concerns your Freedom of Information Act (FOIA) request, SSA-2019-000252. Per your appeal, you state that you are a recognized member of the news media and you are requesting classification as such.

Upon review of your appeal, I agree with Ms. Chyn and affirm your categorization as a "commercial requester." In your appeal, you state that your past writings have been made "available through non-profits such the Internet Archive and MuckRock, disseminating them to a large audience." While both entities make information available to the public, they do not meet the definition of "news media entities," as defined in the FOIA. See [80 Federal Register 18111](#).

The statutory definition of "news media" includes alternative news media entities; however, this is true "only if such entities qualify as disseminators of 'news,' who make their products available for purchase by or subscription by or free distribution to the general public" (5 U.S.C. § 552(a)(4)(A)(iii)). The statutory definition also specifies that freelance journalists may be considered representatives of the news media if they can "demonstrate a solid basis for expecting publication through [a news media] entity" (5 U.S.C. § 552(a)(4)(A)(iii)).

After review of Internet Archive's and MuckRock's websites, it is clear that both entities are not news media outlets. MuckRock serves as a vendor of information with a commercial interest in FOIA requests filed through its site. Per its *Frequently Asked Questions* page, MuckRock states that it "was created precisely because we had filed requests on our own, and because we were extremely frustrated by the process." See <https://www.muckrock.com/faq/>. As concerns Internet Archive, this is a digital library, not a news media outlet.

I understand that you are listed among the contributors to MuckRock (as captured on their *Staff* page). See <https://www.muckrock.com/staff/>. Per the Department of Justice's [Guide to the FOIA](#), "designation of a requester as a 'commercial requester'...turn[s] on the use to which the requested information would be put." Your contribution to a commercial entity, such as MuckRock, furthers your commercial interest, thus, solidifying your status as a "commercial requester" under the FOIA. If you would like to continue with your FOIA request SSA-2019-000252, **you must let us know**

within ten business days from the date of this letter. If we do not receive payment in connection with SSA-2018-002936 within ten business days from the date of this letter, we will administratively close that request. You will not receive separate notification that we closed your request.

This is the agency's final decision in this matter. You may contact our FOIA Public Liaison if you have questions regarding the final decision. Our FOIA Public Liaison is available by email at FOIA.Public.Liaison@ssa.gov; by phone at 410-965-1727, by choosing Option 2; or facsimile at 410-966-0869.

If you still believe the decision is incorrect, you may seek review in a United States district court. You may also contact the Office of Government Information Services (OGIS) for mediation and dispute resolution services. OGIS is an entity outside of the Social Security Administration. Using OGIS services does not affect your right to pursue litigation. You may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road – OGIS
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Telephone: 202-741-5770
Fax: 202-741-5769
Toll-Free: 1-877-684-6448

Sincerely,

A handwritten signature in cursive script that reads "Mary Ann Zimmerman".

Mary Ann Zimmerman
Acting Executive Director
Office of Privacy and Disclosure